IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3695 OF 2007

Bashir Kasam Dalal. ..Petitioner.

V/s.

Ashraf Kasam Dalal. ..Respondent.

Mr.P.S.Dani for petitioner.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 4, 2007.

P.C. :

1. According to the petitioner, even if the Order of the Lower Court granting amendment was to be confirmed, even so, the question as to whether the relief claimed by the plaintiff by way amendment was barred by limitation, that issue ought have been kept open. According to the petitioner, the trial Court has made no reference about that fact in the impugned order.

2. It will be open to the petitioner to approach the trial Court and get that clarification, if so desired. It will be open to the petitioner to contend that the amendment granted by the trial Court ought to be made effective from the date of the amendment and not relate back to the date of institution of the suit.

The trial Court may consider those aspects and pass appropriate orders. The petitioner, if so desires, may take such application before the trial Court within two weeks from today. The trial Court shall dispose of the said application within four weeks from the date of its presentation. All questions in that behalf are left open, to be decided on its own merits in accordance with the law.

3. Petition disposed of on the above terms.